

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>MICHAEL REGLUS,</b>	)	<b>CASE NO. 1:08 CV 1568</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>JUDGE DONALD C. NUGENT</b>
	)	
<b>COMMISSIONER OF SOCIAL SECURITY)</b>		<b>Magistrate Judge David S. Perelman</b>
	)	
<b>Defendant.</b>	)	<b><u>MEMORANDUM OPINION</u></b>

This matter is before the Court on the Report and Recommendation of Magistrate Judge David S. Perelman (Document # 17), recommending that Defendant's final determination denying Plaintiff's claims for disability benefits be upheld and final judgment be entered in favor of the Commissioner.

The Magistrate Judge thoroughly discussed and analyzed the procedural history of this case and the testimony presented to the ALJ. Relying upon the "substantial evidence" standard as discussed in *Garner v. Heckler*, 745 F.2d 383, 387 (6<sup>th</sup> Cir. 1984), the Magistrate Judge found the ALJ's decision to deny Ms. Reglus disability benefits to be within his zone of choice.

On July 2, 2009, Mr. Reglus filed his Objection to the Magistrate's Report and Recommended Decision. (Docket #18.) Mr. Reglus states that he disagrees with the ALJ's determination that he could perform work and was, therefore, not disabled. Mr. Reglus asserts

that the ALJ should have further explained why the facts and evidence did not support a finding of medical equivalence relative to Listing §12.05C. Mr. Reglus asks the Court to decline to adopt the Report and Recommended Decision and reverse or remand for further evaluation and analysis.

On July 13, 2009, the Commissioner filed a Reply to Plaintiff's Objection to the Magistrate's Report and Recommended Decision. (Docket #19.) The Commissioner urges the Court to adopt the Magistrate Judge's Report and Recommendation. The Commissioner asserts that the medical findings in the record provide substantial evidence supporting the ALJ's decision and that the ALJ reasonably found that Mr. Reglus's mental impairment did not meet or medically equal Listing § 12.05C. The Commissioner states that even if some evidence supports the opposite conclusion, substantial evidence supports the ALJ's decision and, therefore, the decision must be affirmed. *Cutlip v. Sec'y of Health & Human Servs.*, 25 F.2d 294, 286 (6<sup>th</sup> Cir. 1994).

#### **Standard of Review for a Magistrate Judge's Report and Recommendation**

The applicable district court standard of review for a magistrate judge's report and recommendation depends upon whether objections were made to the report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case *de novo*. FED. R. CIV. P. 72(b) provides:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The standard of review for a magistrate judge's report and recommendation is distinct from the standard of review for the Commissioner of Social Security's decision regarding

benefits. Judicial review of the Commissioner's decision, as reflected in the decisions of the ALJ, is limited to whether the decision is supported by substantial evidence. *See Smith v. Secretary of Health and Human Servs.*, 893 F.2d 106, 108 (6<sup>th</sup> Cir. 1989). "Substantial evidence exists when a reasonable mind could accept the evidence as adequate to support the challenged conclusion, even if that evidence could support a decision the other way." *Casey v. Secretary of Health and Human Servs.*, 987 F.2d 1230, 1233 (6<sup>th</sup> Cir. 1993) (citation omitted).

### **Conclusion**

This Court has reviewed the Magistrate Judge's Report and Recommendation *de novo* and has considered all of the pleadings, transcripts, and filings of the parties, as well as the Objections to the Report and Recommendation filed by Mr. Reglus. After careful evaluation of the record, this Court adopts the findings of fact and conclusions of law of the Magistrate Judge as its own. This Court finds that Magistrate Judge Perelman properly found that the ALJ's decision denying benefits was within his zone of choice and supported by substantial evidence.

For the foregoing reasons, the Report and Recommendation of Magistrate Judge Perelman (Document # 17) is hereby ADOPTED. The Commissioner's final determination is hereby AFFIRMED.

IT IS SO ORDERED.

s/Donald C. Nugent  
DONALD C. NUGENT  
United States District Judge

DATED: July 20, 2009